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Attorneys for Defendant
ART.COM, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GOTHAM CITY ONLINE, LLC, a Delaware
limited liability company,

Plaintiff,

v.

ART.COM, INC., a Delaware corporation, and
Does 1-50,

Defendant.

Case No. 3:14-cv-00991-JSW

STIPULATION AND ~~PROPOSED~~
ORDER DISMISSING ACTION

**AND TERMINATING MOTION TO COMPEL
ARBITRATION**

1 Plaintiff Gotham City Online, LLC (“Gotham”) and Defendant Art.com, Inc. (“Art”), by
2 and through their respective counsel of record, do hereby enter into the following stipulation:

3 WHEREAS, Gotham brought this action, styled *Gotham City Online LLC v. Art.com,*
4 *Inc.*, Case No. 4:14-cv-00991-JSW, on March 4, 2014 asserting various claims and seeking a
5 temporary restraining order against Art;

6 WHEREAS, on March 5, 2014, Art moved to compel the entire action to arbitration and
7 to disqualify Gotham’s then counsel;

8 WHEREAS, after briefing and oral argument, on March 18, 2014, the Court denied
9 Gotham’s application for temporary restraining order, granted Art’s motion to disqualify, and
10 stayed the action, including the hearing on Art’s motion to compel arbitration, pending
11 appearance of new counsel for Gotham;

12 WHEREAS, Art reserves the right to file a motion for fees and costs Art incurred in
13 connection with its motion to disqualify solely against Gotham’s prior counsel and does not
14 intend to and will not seek such fees and costs incurred in connection with that motion to
15 disqualify from Gotham or its new counsel;

16 WHEREAS, Art has not yet responded to Gotham’s complaint;

17 WHEREAS, the parties have met and conferred and agreed that, to the extent that any
18 claims that gave rise to Gotham’s complaint in this action remain, such claims, and any of Art’s
19 defenses thereto, shall, if necessary after good faith cooperation between the parties is not
20 successful, be decided by the arbitrator(s) in the pending proceeding captioned as: *Art.com v.*
21 *Garriss, Topkins, and Hersh, and Gotham City Online*, AAA Case No. 74 523 Y 120 14 AMCH;

22 NOW, THEREFORE, Gotham and Art hereby stipulate to dismiss this case without
23 prejudice, as follows:

24 1. Gotham’s complaint against Art in this action, and all claims therein, are
25 hereby dismissed **without prejudice.**

26 2. Art reserves its right to seek its fees and costs incurred in connection with
27 its motion to disqualify solely from Gotham’s prior counsel, and Gotham takes no position as to
28 any such effort by Art;

3. With the sole exception of Art's reservation of rights to seek fees and costs from Gotham's prior counsel, Gotham and Art shall each bear its own respective fees and costs incurred herein, and both parties waive any rights to appeal from any order entered in this action.

DATED: May 6, 2014

KERR & WAGSTAFFE LLP

By /s/
IVO LABAR
ADRIAN J. SAWYER

Attorneys for Plaintiff
GOTHAM CITY ONLINE, LLC

DATED: May 6, 2014

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

By /s/
CLAUDE M. STERN
EVETTE D. PENNYPACKER

Attorneys for Defendant
ART.COM, INC.

[PROPOSED] ORDER

Pursuant to the parties' stipulation;

IT IS SO ORDERED. The Court terminates the pending motion to compel arbitration.

Dated: May 28, 2014


Honorable Jeffrey S. White